

Turlock Groundwater Basin Association

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SUBMITTED VIA EMAIL to SGMPS@water.ca.gov

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MEMBER AGENCIES:

URBAN

Cities:

Turlock

Hughson

Ceres

Modesto

County WDs:

Hilmar

Delhi

Community SDs:

Denair

Keyes

AGRICULTURAL

Water Districts:

Eastside

Ballico-Cortez

Irrigation Districts:

Merced

Turlock

OTHER ENTITIES

Counties:

Stanislaus

Merced

California Department of Water Resources
Attn: Lauren Bisnett, Public Affairs Office
P.O. Box 942836
Sacramento, California 94236

Re: Turlock Groundwater Basin Association – Comments on DWR’s Draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives

Dear Ms. Bisnett:

The agencies within the Turlock Subbasin, which is a part of the larger San Joaquin Valley Groundwater Basin, have been working together as the Turlock Groundwater Basin Association (TGBA) since 1994. Today, the TGBA represents 14 water agencies within the subbasin that rely, in whole or in part, upon groundwater for its supply. Groundwater and surface water resources are vitally important to the continued well-being of the area’s economy, and as such the TGBA and its member agencies are active in coordinating efforts to manage these valuable resources.

After the Sustainable Groundwater Management Act (SGMA) passed in 2014, the TGBA member agencies developed and adopted a Memorandum of Understanding (MOU) which demonstrates our commitment to form one or more Groundwater Sustainability Agencies (GSAs) and work together to develop a Groundwater Sustainability Plan (GSP) for the subbasin. To date, we have made significant progress toward forming GSAs and hope to file the required formation documentation ahead of the June 30, 2017 deadline.

The regulations, once adopted, will establish the approach GSAs must take to comply with the new requirements. The regulations will also set forth a baseline upon which future GSPs will be judged. Given the importance of these regulations to the long-term groundwater management effort, the TGBA appreciates the opportunity to comment on the Draft Emergency Regulations for Groundwater Sustainability Plans and Alternatives, and the Association offers the following comments for your consideration:

General Comments:

Overreaching Regulation: One of the guiding principles of SGMA is that groundwater management is best performed at the local level. DWR recognizes the importance of local control, stating “local control and management is a fundamental principle of SGMA.” However, despite this assertion, the Proposed Regulations at times appear to be

overreaching and too prescriptive. Further, certain sections appear to attempt to manage groundwater basins at the state level instead of from the local level.

For example, Section 352.6 dictates metrics that local agencies must use to report groundwater data. Section 354.16 stipulates the factors and timing upon which local agencies must define historical basin conditions. Additionally, the Proposed Regulations establish six factors that “shall quantify” the local water budget. Section 354.28 requires that locally developed minimum thresholds be “numeric values,” and continues on to require that the local definition of minimum thresholds include six specific factors.

It is understood that DWR has developed some of the requirements in an attempt to standardize the data set and information that will be generated through the SGMA process. However, TGBA respectfully requests DWR revise the Proposed Regulations to ensure that locals are able to manage basins locally.

While not specifically required by SGMA, certain DWR suggestions such as those mentioned above could be incorporated into a guidance document produced by DWR, rather than the regulation. DWR undertook a similar approach in its role as the regulator of Agricultural Water Management Plans. Guidance documents provide suggestions and recommendations to help to inform the regulated community, but are more flexible than regulations. For example, a guidance document could suggest that all data be provided to DWR, or that a Submitting Agency be identified to combine and coordinate multiple GSPs. A guidance document could be developed to supplement the regulations and assist the regulated community in understanding what will help DWR to evaluate the GSPs. Guidance documents could be developed to assist in the development of Coordinating Agreements, Groundwater Sustainability Plans, and Best Management Practices. However, it must be made clear within the guidance documents, that these overreaching suggestions are simply that – suggestions.

Additionally, the process of designing and developing GSPs is a new concept. It is unreasonable to assume that either the local agencies or DWR will get it all right the first time. As we learn more, and as additional information becomes available, the approach may change. Guidance documents can be more easily updated to adapt to these changes, and are better suited to some of the suggestions and specifics that DWR has incorporated into the GSP regulations.

Specific Comments:

1. Modeling and other Tools: Section 352.6 calls for groundwater and surface water models developed or utilized as part of or in support of a Plan to be in the public domain, constructed on open-source software with publicly-available supporting documentation that establishes its ability to represent groundwater and surface water flow. The TGBA and its member agencies have invested significant resources in the tools necessary to sustainably manage groundwater resources. To unduly burden and preclude the use of tools, information or additional resources not currently in the public domain or not supported by publicly-available information significantly inhibits resource managers from continuing to effectively and efficiently manage local resources in the best interests of those we serve.

Local agencies should have the ability to determine the appropriate tools for their particular circumstances. So long as the tools meet the local need, and they are able to articulate that to the DWR through the GSP process, local agencies should not be required to migrate them into a specific “publicly-available” format.

Providing a recommended approach is useful, but requiring a specific manner in which tools will need to be developed locally will cost local agencies significant time and resources to comply with the new requirements. This runs the risk of mandating that local agencies divert resources that could otherwise be used to fill data gaps, conduct outreach, and otherwise manage the resource.

2. Emergency Contingency Projects: Section 354.44 requires emergency contingency projects or actions be identified in the event that groundwater conditions in the basin have passed a minimum threshold or that undesirable results have occurred or are imminent. Emergency contingency projects or actions are required that will achieve immediate results.

It is impractical to assume emergency contingency projects or actions will achieve immediate results. Dependent on the responsiveness of the basin, it could take several years for such improvements to be realized. As an alternative, the TGBA suggests GSAs demonstrate that the emergency has been abated within a period of five years or as otherwise supported by the best available science and documented in the annual reporting to DWR outlined in the regulations.

GSAs must show substantial compliance and achieve sustainability within 20 years. To achieve this, they will need to use a variety of tools. However, the best “contingency” approach might not be known at the onset of the Plan. The adopted GSP should include a proposed approach to achieve sustainability, along with a timeline, schedule and budget. It could also include a suite of tools available to the GSA, in addition to defined plan. These tools would be available as needed. GSPs are intended to be adaptive, enabling GSAs to adjust their management approach as they respond to changing conditions. GSAs should be given the ability to adapt the suite of tools as necessary, to achieve the desired goals.

3. Annual Report Review: Section 356.6 calls for DWR to acknowledge receipt of annual reports, but fails to provide a definitive timeline for recommending corrective actions to address any deficiencies. TGBA suggests that DWR recommend corrective actions within 180 days from the date of acknowledgement of receipt of the Plan.

4. Intra-basin Coordination: Section 357.4 is overly prescriptive and inconsistent with the fundamental SGMA principles regarding local control and management. While it is understood that coordination will be needed to ensure management by multiple GSAs within a subbasin will achieve sustainability, establishing a “submitting agency” and requiring that a “single report synthesizing and summarizing the information...” be produced goes beyond the legislative intent. Rather than requiring one Submitting Agency, the revised regulation should stipulate that the GSPs must include information to sufficiently demonstrate to DWR how multiple GSPs will be implemented such that the subbasin will be managed, in a coordinated manner, to achieve sustainability.

5. Technical Information: The Proposed Regulations require significantly more information be submitted to DWR than originally envisioned by SGMA. In fact, the Proposed Regulations may require more information than is necessary to achieve sustainability. It is unclear what requiring all plans to include this information will accomplish beyond ensuring that consistent information was used in multiple plans. To the extent that information is applicable to the plan area, and necessary to achieve sustainability, the agency should provide the information. However, requiring unnecessary data, simply for consistency purposes, does not promote sustainability, and diverts energy and resources away from the primary task at hand.

The Proposed Regulations should be scaled back to allow the local management agencies to evaluate which information is necessary to support the Plan to achieve sustainable groundwater management. Additionally, basins with multiple GSPs, should describe how they have coordinated to ensure they are

utilizing similar datasets and assumptions, rather than requiring duplicative datasets be included in the Plans. Specific suggestions with respect to what types of information would be demonstrative from DWRs perspective, could be included in the Guidance Documents described above.

6. Best Management Practices: As indicated above, Best Management Practices should be one of the Guidance Documents developed by DWR to assist GSAs in developing and updating their GSPs over time. BMPs should be suggestions only. The Proposed Regulations should be revised to clearly reflect that BMPs should not be considered the minimum requirements, but rather suggested practices the GSA may consider in their efforts to achieve sustainability.

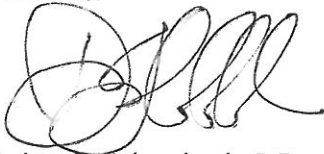
7. Depletion of Interconnected Surface Waters Adversely Impacting Beneficial Uses: The Proposed Regulations use an incorrect metric for determining an undesirable result for interconnected surface waters. Unfortunately, this undesirable result cannot be determined with a single metric. In order to find this undesirable result, one must find that: (1) the groundwater is interconnected with surface waters; (2) extractions of groundwater are causing the depletion of surface water; and (3) depletions are causing significant and unreasonable adverse impacts to the beneficial uses of surface water. Instead of approaching it in this manner, the Proposed Regulations attempt to simplify the issue by determining the metric to be a volume of surface water depletion.

If there is an impact to surface waters, there could be a variety of factors that might be impacting it. This is important, because even though there may be a volume of water being removed from the surface water, impacts to beneficial uses may be caused by other factors.

The approach should be revised to address items (1) and (2) above first. If these do not apply, then the undesirable result may not be applicable for the subbasin. If they do apply, then the undesirable result must be evaluated not based on a volume of surface water depletion, but rather, whether or not there is a significant and unreasonable impact to the beneficial uses of the surface water, and a determination that it is the groundwater extraction that is causing these impacts.

As noted above, the TGBA appreciates the opportunity to provide comments on the Draft Regulations and should you have any questions or concerns regarding the information noted herein, please feel free to contact me at (209) 883-8428.

Sincerely,

A handwritten signature in black ink, appearing to read 'Debra C. Liebersbach', with a stylized, cursive script.

Debra C. Liebersbach, P.E.
Chair, Turlock Groundwater Basin Association

cc: TGBA File
TGBA Member Agencies